

AMENDED IN SENATE MARCH 17, 2003

SENATE BILL

No. 219

Introduced by Senator Romero
(Coauthor: Assembly Member Chavez)

February 13, 2003

An act to amend Section 17004.7 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 219, as amended, Romero. Public agency: liability: immunity.

Under existing law, a public agency employing peace officers that adopts a written policy on vehicular pursuits complying with specific standards is immune from liability for civil damages for personal injury to, or the death of, any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is, or has been, pursued by a peace officer employed by the public entity in a motor vehicle.

This bill would also require, as a condition to the application of the civil immunity, that the public agency implement and adhere to the written policy described above. ~~For the~~ *The immunity to would only apply, the bill would further require that, at the time of the incident resulting in the collision, if a finding is made that the involved peace officer was adhering to the complying with the public agency's adopted, written policy for the immunity to apply on vehicular pursuits, as a question of fact for the trier of fact.*

The bill would provide that nothing contained in these provisions affects the application of civil immunity provided to public employees under a related provision of existing law.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares the*
2 *following:*

3 (a) *Recent gruesome motor vehicle accidents involving police*
4 *pursuits in which very young children are innocent victims, and*
5 *appalling statistics regarding police pursuits throughout the*
6 *nation and especially in California, have generated extensive*
7 *publicity and intense public concern.*

8 (b) *According to the California Highway Patrol, there were*
9 *5,334 police pursuits in the state in the year 2000 and 21 percent*
10 *of those pursuits resulted in collisions. Ten percent of the collisions*
11 *caused significant injuries and 16 resulted in death.*

12 (c) *Los Angeles leads the nation in dangerous police pursuits,*
13 *and their number increased by more than 30 percent between the*
14 *years 2000 and 2001. In 2001, there were 781 police pursuits, the*
15 *equivalent to more than two per day, with 139 of those pursuits*
16 *involving injuries and six causing death. Sixty percent of the police*
17 *pursuits initiated by the Los Angeles Police Department involved*
18 *minor traffic violations, including missing license plates or broken*
19 *tail lights.*

20 SEC. 2. Section 17004.7 of the Vehicle Code is amended to
21 read:

22 17004.7. (a) The immunity provided by this section is in
23 addition to any other immunity provided by law. The adoption of
24 a policy by a public agency pursuant to this section is discretionary.

25 (b) (1) A public agency employing peace officers that adopts,
26 ~~implements, and adheres to~~ *and implements* a written policy on
27 vehicular pursuits complying with subdivision (c) is immune from
28 liability for civil damages for personal injury to, or the death of,
29 any person or damage to property resulting from the collision of
30 a vehicle that is operated by an actual or suspected violator of the
31 law who is, has been, or believes he or she is, or has been, pursued
32 by a peace officer employed by the public entity in a motor vehicle.

33 (2) The immunity provided by paragraph (1) ~~only applies if, at~~
34 ~~the time of the incident resulting in the collision, the involved~~
35 ~~peace officer was adhering to the adopted, written policy.~~ *applies*

1 *only if a finding is made pursuant to subdivision (e) that the*
2 *involved peace officer in a vehicular pursuit complied with the*
3 *public agency's adopted, written policy on vehicular pursuits.*

4 (c) If the public entity has adopted a policy for the safe conduct
5 of vehicular pursuits by peace officers, it shall meet all of the
6 following minimum standards:

7 (1) It provides that, if available, there be supervisory control of
8 the pursuit.

9 (2) It provides procedures for designating the primary pursuit
10 vehicle and for determining the total number of vehicles to be
11 permitted to participate at one time in the pursuit.

12 (3) It provides procedures for coordinating operations with
13 other jurisdictions.

14 (4) It provides guidelines for determining when the interests of
15 public safety and effective law enforcement justify a vehicular
16 pursuit and when a vehicular pursuit should not be initiated or
17 should be terminated.

18 (d) A determination of whether a policy adopted, ~~implemented,~~
19 ~~and adhered to~~ pursuant to subdivision (c) complies with that
20 subdivision is a question of law for the court.

21 (e) *A finding of whether a peace officer in a vehicular pursuit*
22 *complied with the public agency's adopted, written policy on*
23 *vehicular pursuits is a question of fact for the trier of fact.*

24 (f) *Nothing in this section affects the application of civil*
25 *immunity provided a public employee under Section 17004.*

